

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 17, 2011

In the Matter of J. ROMERI, Minor.

No. 300149

Chippewa Circuit Court

Family Division

LC No. 10-013881-NA

Before: HOEKSTRA, P.J., and MURRAY and M. J. KELLY, JJ.

PER CURIAM.

Respondent appeals by right the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g), (j), and (m). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). The evidence showed that respondent voluntarily released her parental rights to another child after the initiation of proceedings under MCL 712A.2(b) and proven allegations of neglect, a demonstrated inability to care for the child despite numerous services, homelessness, and hospitalization for emotional disorders. In the present case, the court took judicial notice of the previous file, which established the requirements of MCL 712A.19b(3)(m).¹

Because of the prior termination, there was a mandatory investigation following this child's birth. Petitioner decided to send the infant home with respondent and the child's father with numerous in-home services. Despite all these services and the care of two doctors, the minor child was admitted to the hospital at the age of five weeks suffering from malnutrition and a failure to thrive. The child was near death and was unable to suck. Once in the hospital, around-the-clock supervision and assistance were provided to respondent by the hospital staff while they tried to teach her how to feed, hold, and interact with her baby. All who observed respondent described her as uninvolved with her baby, unable to learn how to feed or properly hold her baby, and constantly distracted by speaking and texting on her phone, the television, and the computer in the room. As soon as the feeding was over, the infant was placed in the bassinet

¹ Respondent's argument that termination under this subsection requires that the prior termination proceeding include proven abuse, and not merely neglect, is without merit.

so that respondent could take a smoking break. Respondent failed to learn from the instructions, help, and guidance of the many service providers and the hospital staff. The same suggestions, demonstrations, and instructions were provided to respondent repeatedly without any result. In addition, there was evidence that the infant had other medical problems that would require special care.

This evidence was sufficient to establish by clear and convincing evidence that, without regard to her intent, respondent had failed to provide proper care or custody for her child and there was no reasonable expectation that she would be able to provide proper care or custody within a reasonable time considering the child's age. MCL 712A.19b(3)(g). The same evidence — particularly the infant's life-threatening condition when she was admitted to the hospital, the failure of respondent to improve in her parenting skills, her failure to interact with the infant, her distractibility, and the fact that the infant had additional medical problems — also established by clear and convincing evidence that there was a reasonable likelihood, based on respondent's conduct and capacity, that the infant would be harmed if returned to respondent. MCL 712A.19b(3)(j).

Finally, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-367; 612 NW2d 407 (2000); MCR 3.977(K). Despite her acceptance of the services and even seeking out the help of doctors and a psychologist, the facts showed that respondent did not improve in her parenting. In addition to her failure to provide sufficient food to the child, causing the infant to fail to gain weight after birth and thrive, respondent had been significantly disengaged in parenting. There clearly was no bond between respondent and the infant. The evidence was clear and convincing that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Christopher M. Murray
/s/ Michael J. Kelly